A

File No. 229(C)

19 31.

Collection No.

Mysore Residency

Bangalore.

(6)

Pros. / Serial Nos. 1-11

Subject.

General circulars of the Central Board of Revenue.

Previous References.	Later References.
	F.No.634 of 1934.

S. 97.—(Blue).

MFP—1307 S&P—(M-1907)—8-3-35—60,000.

NOTES AND PRECIS.

FILE No. 229(e) 1931.

Section. File No.

Heading. Serial No.

NOTES.

DEPT. / BRANCH.

Pros. 19 Nos.

Subject.

General circulars of the Central Board of Revenue.

Notes and Orders.

F.No.634 of 1934.

S. 1.

MG1PC—S1—1027 (CPS)MFP—(M-753)—24-8-34—6,00,000.

P.U.C.

Letter C.No.23-I.T./32, dated the 27th July, 1932, from the Secretary, Central Board of Revenue, Simla.

Draft submitted.

15/8/32

Issued No.5544, dated the 20th August, 1932.

S.N.8

P.U.C.

Letter No.I.T.Gl.111, dated the 30th May, 1933, from the Collector and Assistant Commissioner of Income Tax, Civil and Military Station, Bangalore.

Please see the Board's Circular at slip 'G'.& p.u.c.

Draft submitted.

7-7-33

7.7.33

S.N.9

Issued M.S.160 dt- 13.7.33

S.N.10
P.U.C.

Letter C.No.469-I.T./33, dated the 20th July 1933 from the Secretary, Central Board of Revenue.

Please see Sl. Y + A

Draft submitted.

25/7/33

30.7.33

S.N.11

Issued No. 5714 dt. 7.8.33.

CORRESPONDENCE.

S.N.1

A 918

C.No.23-I.T./32.

CENTRAL BOARD OF REVENUE.

Simla, the 27th July 1932.

From

Rai Bahadur Pandit Ram Nath, B.A.

Secretary, Central Board of Revenue,

To

The Secretary to the Resident and commissioner of Income-tax Civil and Military Station, Bangalore.

OFFICE OF THE RESIDENT IN MYSORE. BANGALORE. 9 AUG. 1932 Regd. No. 7142 File. No.

Sir,

Personal incomes - Assessment to income-tax and supertax - Statistics.
Board's Circular R.Dis.733-I.T/26, dated 7th April 1928.

The Board has for sometime been considering the question of improving the statistics relating to personal incomes, and in that connection I am directed to request that a statement in the form enclosed herewith may kindly be submitted to the Board in the month of May every year.

I have the honour to be,

Sir,

Your most obedient servant,

Ram Nath
1-8-32

Secretary, Central Board of Revenue

BRS.29/7.

Grades of income as in Provincial Return IV.	* Individuals & H.U.Fs		@ Unregistered firms taxed as such		Salaries of officers in Central Departments whether directly assessed or not £		Total.	
	Income	Income tax	Income	Tax	Income	Tax	Income	Tax
Total.								

*Including, as far as possible, shares of partners, resident in the Province, of Registered firms, but excluding shares of partners in Unregistered Firms taxed as such, and also excluding ~~xxxxx~~ salaries of officers of Central Departments as regards other salaries, if not directly assessed, salary and tax deducted thereon in the previous year to be shown.

@ Excluding, as far as possible shares of non-resident partners.

£ If not directly assessed, salary and tax deducted thereon in previous year to be shown.

S.N.2

Draft.

No. 5344 Ce 2. Dated 20th Aug-1932

A copy of the marginally noted paper, with enclosure, is forwarded to the Collector and Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore with the request that the statement called for therein may kindly be submitted to this office early in May every year.

for SECRETARY TO THE RESIDENT
and
COMMISSIONER OF INCOME-TAX.

15-8-32

F.I.C. Letter C.No.23-I.T./32, dated the 27th July, 1932, from the Secretary Central Board of Revenue.

× A.C. to be reminded if report not received by 15-5-33. To be noted in the diary

15-8-32

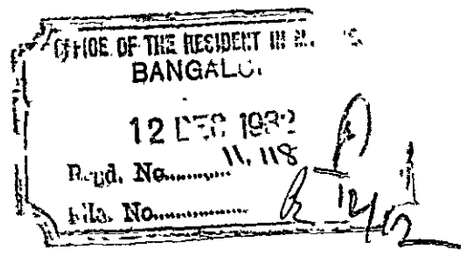
Copy with all

8×5. 20/8/32.

S. N. 3

Circular No. 35 of 1932.
C. No. 35 I. T./32.

CENTRAL BOARD OF REVENUE.



New Delhi, the 28th November 1932.

CIRCULAR.

DOUBLE INCOME-TAX RELIEF—UNITED KINGDOM AND INDIA—INDIAN INCOME-TAX ACT (XI-22)—SECTION 49(2)—INTERPRETATION—"THE SAME PART OF HIS INCOME".

Since some doubt was felt concerning the meaning to be placed on the words " the same part of his income " in section 49 (1) of the Indian Income-tax Act (XI-22) and in section 27 (1) of the United Kingdom Finance Act, and since, as has been explained on previous occasions, it is necessary that the practice in British India should coincide as far as possible with the practice in the United Kingdom in working these mutually complementary provisions, the Board has now obtained authoritative information in regard to the United Kingdom system of calculating relief where the income of the claimant in respect of which relief is claimed in the United Kingdom and in a Dominion respectively differs in amount. This is summarised below.

2. It is not the practice in the United Kingdom, as has been suggested, to regard the smaller of the two incomes as the doubly-taxed income in respect of which relief is due. The United Kingdom authorities regard the expression " the same part of his income " as having " a qualitative and not a quantitative significance ". In other words it means practically income from the same source. The instructions on page 230 (paragraph 93) of the Income-tax Manual correctly represent their general attitude.

3. The United Kingdom system comes to this, that in practically all cases relief is given in respect of the income charged in the United Kingdom, whether that be higher or lower than the income charged in the Dominion. The corollary of this is that the Dominion should follow the same principle, and allow relief in respect of the income charged in the Dominion, whether that be higher or lower than the income charged in the United Kingdom.

4. To take specific instances concerning which there has been discussion. If the income as computed in the United Kingdom is higher or lower than that computed in the Dominion because either (*a*) particular allowances and deductions, such as " wear-and-tear ", differ in the two countries or (*b*) the periods on the income of which the tax is charged are not identical, none the less the United Kingdom authorities calculate relief on the income charged in the United Kingdom. The Board has already directed that this principle should be followed where different accounting periods are concerned, in its D. O. R. Dis. 325-I. T./31, dated 11th December 1931. It must not be forgotten of course that the relief in the United Kingdom is calculated on " taxable income ", *i.e.*, total income less personal, married, children and other family allowances and the allowance for earned income, but without deducting the " reduced rate " and life assurance allowances.

5. If the difference between the incomes charged in the two countries is due (*c*) to a loss being carried forward in the United Kingdom and not in the Dominion or (*d*) to the fact that remittances only are taxed in the United Kingdom and the whole income in the Dominion, relief is given in the United Kingdom as before on the income charged in the United Kingdom.

6. But the last case (*d*) is not on the same footing as cases (*a*) and (*b*) since in case (*d*) the actual scope of the charge is different. Consequently, if the United Kingdom charged tax on the whole income, and the Dominion only on the part remitted, the relief in the United Kingdom would be calculated on the part remitted, and the same would be true if the position were reversed.

7. Case (*c*) is also somewhat different, because the losses are definitely required by the United Kingdom law to be deducted from the income charged. There is, therefore, a variation due to the scope of charge rather than to computation of income, but as a matter of fact, a case does not appear to have arisen in which owing to the carry forward of losses the income charged was lower in the Dominion than in the United Kingdom.

8. The Board therefore directs that in cases of classes (*a*) and (*b*) relief in British India should be calculated on the income computed in British India. In cases of class (*d*) the remittances alone should be regarded as having suffered double taxation. In cases of class (*c*), if there is no other cause of variation, the income will always be lower in the United Kingdom since the carry forward of losses is not at present allowed in British India. Until further orders relief in such cases should not be given in India on the losses carried forward in the United Kingdom.

9. Where a defined part of the income is exempted from tax, or falls altogether outside the scope of the tax in either country, for example, interest on tax-free securities in either country, or agricultural income in British India, relief will not be allowed in respect of the tax on such part of the income. It may be (however) that the exempted or untaxed part of the income is not defined or separable, but forms an element in the income doubly taxed. For example, remittances may be made to the United Kingdom from British Indian income derived from both taxed and tax-free sources in British India, and it may not be possible to say how much is derived from each. In such circumstances relief will be allowed on a part of the remittances proportionate to the part of the income in British India that is derived from sources, subject to tax. The deduction from taxable income allowed in super-tax assessments in British India is not to be treated as exempt from super-tax. See Board's circular No. ~~2 of 1930/R. Dis. 57-I. T./30, dated the 5th August 1930.~~ 9 of 1930/R. Dis. 57-I.T./30 dated the 5th May 1930.

10. In the case of tea-gardens, relief will be allowed on the 40 per cent. of the combined agricultural and non-agricultural profits liable to tax in British India.

11. These instructions have no bearing on the arrangements in regard to Double Income-tax Relief with Ceylon. See Central Board of Revenue Circular No. 31 of 1932 C. No. 35-I. T./32, dated the 9th November 1932.

Vide Corrigendum 2(52)-B.R/No. 35-I.T/32 dt. 16.12.32.

6.12.32

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

GIPD—599 CBR—5-12-32—730.

S. N. 4

Circular No. 36 of 1932.
R. Dis. No. 269-I. T./32.

CENTRAL BOARD OF REVENUE.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
13 DEC. 1932
Regd. No. 11,162
File. No. 229/31

CIRCULAR.

New Delhi, the 2nd December 1932.

EXPORT TRADE—PROFITS OF—RESIDENTS AND NON-RESIDENTS—ASSESSMENT OF.

The Board is anxious to secure uniformity, as far as possible, in regard to the assessment to income-tax of the profits derived by residents in British India and non-residents respectively from the export of goods from British India.

It therefore issues the following consolidated instructions which should be followed as closely as possible in all Provinces.

2. (I) *Non-residents.*

Manufacture, conversion or buying for export.—(*a*) If the entire profits or part thereof are received for the first time within British India *at any time*, the profits so received are liable to tax, unless it can be proved that they have become capitalised. Section 4 (2) does not apply. But if they have once been received, constructively or otherwise, outside British India, they cannot be received again within British India.

(*b*) If no part of the profits is received in British India, we should try to tax approximately the profits that would have been made if the goods had been sold f. o. b. or f. o. r., (or on a corresponding basis if export is made by road), to a foreign purchaser at the port or place of export from British India; or following the case of Steel Brothers (II. Srinivasan's Tax Cases, page 120), allow a reasonable commission-agent's commission on the sales abroad.

[*Note.*—This principle has not been followed in Madras hitherto owing to the decision of the Madras High Court in the case of the Madras Export Company (I. Srinivasan's Tax Cases, page 194). The Board has pointed out to the Commissioner of Income-tax, Madras, that in view of the Privy Council decisions in the cases of the Bombay Trust Corporation (IV. Srinivasan's Tax Cases, page 312) and the Remington Typewriter Company (V. Srinivasan's Tax Cases, page 177) the decision in the Madras Export Company's case is obsolete. An extract from the Board's letter demi-official 269-I. T./32, dated 18th November 1932, to the Commissioner of Income-tax, Madras, on this subject is attached.]

(II) *Residents.*—(*i*) If total profits or any part thereof are received or brought into British India within three years, the profits so received or brought in are assessable. The fact that they have been received outside British India actually or constructively makes no difference. [Section 4 (2)].

(*ii*) If no part of the profits is received in British India within three years :—

(*a*) *Mere purchase for export.*—According to the ruling of the Lahore High Court in the case of Bhagat Jiwan Das (IV. Srinivasan's Tax Cases, page 40) there is no assessable profit. But the Board has ordered in its

demi-official D. Dis. 744-I. T./29, dated 28th August 1929, to the Commissioner of Income-tax, Bombay (recently communicated to other Commissioners of Income-tax) that this ruling should not be followed outside the jurisdiction of the Lahore High Court. Except within that jurisdiction therefore these cases should be dealt with as under (I) (*b*) above.

(*b*) *Manufacture or conversion for export.*—As under (I) (*b*) above.

8.12.32

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

EXTRACT FROM THE BOARD'S DEMI-OFFICIAL LETTER TO THE COMMISSIONER OF INCOME-TAX, MADRAS, C. NO. 269-I. T./32, DATED THE 18TH NOVEMBER 1932.

* * * * * * *

2. The decision in the Madras Export Company case (I. Srinivasan's Tax Cases, page 194) hinged in the main, so far as I can see, on two doctrines that have now been branded as heresies by the decision of the Privy Council in the Bombay Trust Corporation case (IV. Srinivasan's Tax Cases, page 312), namely :—

(1) that business connection means business, no more no less, and

(2) that you can treat a person as agent under Section 43 unless he is in receipt of profits and gains.

The decision is discussed in your demi-official C. No. 1426/26, dated 19th January 1927.

3. As to (1), the Bombay High Court held that the Hongkong Company was actually carrying on a business in British India, but *also* had a business connection, though they did not say what " business connection " meant (III. Srinivasan's Tax Cases, page 153, about a dozen lines from the bottom of the page). This indicates that " business connection " is not merely synonymous with " business " and the remarks of the Board of Revenue in paragraph 5 on page 196 of I. Srinivasan's Tax Cases are much to the point.

But the Privy Council said nothing about " business ". They said " the respondents have a business connection with the Hongkong Company " (III. Srinivasan's Tax Cases, page 314).

4. Point (2) was also disposed of by the Privy Council both in the Bombay Trust Corporation case and in that of the Remington Typewriter Company (V. Srinivasan's Tax Cases, page 177).

5. The Madras High Court also held that Section 33 (1) of the 1918 Act corresponding to Section 42 (1), was not a charging but a machinery section. That old cliché too is surely disposed of by the two Privy Council decisions. No one could hold that in the Remington case, at all events, so far at least as the *dividends* paid to the Remington Typewriter Company, New York, were concerned, the Indian Company could have been assessed to Super-tax on those dividends as agents for the New York Company, but for Section 43, though they could now be required under Section 57 (2) or (3) to deduct Super-tax which is another matter. [As a matter of fact, Section 57 (2) and (3) read with Section 58 are seriously defective and have to be amended].

6. As for the argument that from mere purchase for export no profits arise, that depends in Wallace J's judgment in the Madras Export Company case on his theory that such ' mere ' purchase does not constitute carrying on a trade or business. But now that the Privy Council has held that to create liability a " business connection " is sufficient and there need not be a " business " that argument too is met.

* * * * * * *

IPD—M610CBR—7-12-32—730.

S.N.5

Draft.

No. 68 Dated 5th Jan 1933

each
A copy/of the marginally noted circulars is forwarded to the Collector and Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore.

1) Circular No.35 of 1932/C.No.35 I.T. /32, dated the 28th November, 1932,

2) Circular No.36 of 1932/ R.Dis.No.269-I T./32, dated the 2nd December, 1932

of the Central Board of Revenue.

for SECRETARY TO THE RESIDENT
and
COMMISSIONER OF INCOME-TAX.

Note.

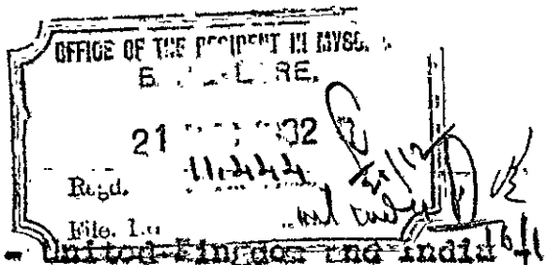
Circular No.35 of 1932 (PUC.I) seems to settle the question of the refund admissible in the case of the Tobacco Manufacturers (India) Ltd., Bangalore, which has been referred to us by the Assistant Commissioner. The file will be submd. separately. A copy of the Circular has been kept in it.

S.N.6

C.No.35-I.T./32.

CENTRAL BOARD OF REVENUE.

New Delhi, the 16th December 1932.



CORRIGENDUM.

Double Income-tax relief - United Kingdom and India - Indian Income-tax Act (XI of 1922) - section 49 (2) - Interprotation - "the same part of his income". Board's circular No.35 of 1932 of 28th November 1932. C.No.35.I.T./32

In paragraph 9 of the Board's circular quoted above substitute No. 9 of 1930/R.Dis.57-I.T./30 of the 5th May 1930 for No. 2 of 1930/R.Dis.57-I.T./30 of the 5th August 1930.

17-12-32
Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

1/13.

S.N.7

OFFICE OF THE RESIDENT IN MYSORE.

Bangalore, 21st January 1933

Communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

No. 532 Enclos. 1

P.U.C

A copy of the marginally* noted paper is forwarded to the Collector and Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, in continuation of this office endorsement No.68, dated the 5th January, 1933

*No. Corrigendum C.No.35-I.T./32, dated the 16th December, 1932, from the Secretary, Central Board of Revenue.

(W)

17.1.33

for Secretary to the Resident.
&
Commissioner of Income-tax.

23—10-4-1931—5,000—RPB.

Draft submitted.

16.1.33

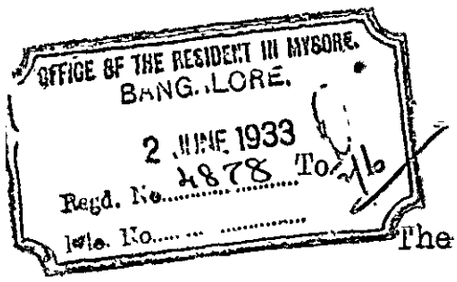
No. I.T.Gl.111 S.N.8

Office of the
Collector and Assistant Commissioner of Income-tax,
Civil and Military Station, Bangalore,

Dated the 30th May 1933

FROM

G. H. Cooke, Esquire, M.C., I.C.S.,
COLLECTOR AND ASST. COMMR. OF INCOME-TAX,
CIVIL AND MILITARY STATION,
Bangalore.



The Secretary to the Resident and
Commissioner of Income-tax,
Civil and Military Station, Bangalore.

Subject.— Personal incomes - Assessment to income-tax and super-tax - Meston settlement - Provincial share - Board's letter C-No.23-I.T/32 dated 27th July 1932 from the Secretary, Central Board of Revenue - Your endorsement No.5544, dated 20th August 1932.

SIR,

Sir,

I have the honour to state that the return referred to in the Board's reference quoted above appears to deal with the revision of the Meston Settlement as regards the share of taxes on income to be allotted to Provinces. As the revenues of the Mysore Assigned Tract are not "Central", the question of any share creditable to a Provincial Government does not arise. I presume therefore that the return is not required in respect of Income-tax collections pertaining to the Mysore Assigned Tract. In past years no such return was either called for or furnished to the Board. I therefore request to be informed whether my presumption is correct.

I have the honour to be,

Sir,

Your most obedient servant,

30.5.33

RSS. ASST. COMMISSIONER OF INCOME-TAX.

S.N. 9

No. 5160

11

From

Major G. Kirkbride, I.A.,

Secretary to the Hon'ble the Resident in Mysore
and
Commissioner of Income-tax,

Bangalore.

To

The Secretary,

Central Board of Revenue,

Simla.

Dated, Bangalore, the 13th July 1933.

Subject:- Personal incomes - Assessment to income-tax and supertax - Statistics. Board's Circular R.Dis.733-I/26, dated the 7th April, 1928.

Sir,

With reference to your letter C.No.23-I.T/32, dated the 27th July, 1932, on the subject noted above, I have the honour to state that the Board's Circular dated the 7th April 1928 referred to therein does not appear to have been received in this office. The statistics called for by the Board appear to deal with the revision of the Meston Settlement as regards the share of taxes on income to be allotted to Provinces. As the revenues of the Mysore Assigned Tract are not Central', the question of any such allotment does not appear to arise. I presume therefore that the statistics called for are not required in respect of income-tax -- collections pertaining to the Mysore Assigned Tract. Nor does it appear that these statistics were furnished to the Board in the past. In these circumstances I request to be

informed

12

informed whether the statement called for in the letter under reference should be submitted.

I have the honour to be,
Sir,
Your most obedient servant,

11.7.33 O/C

for SECRETARY TO THE RESIDENT
and
COMMISSIONER OF INCOME-TAX.

10.7

PKH

S.N.10

13

C.No.469-I.T./33.

CENTRAL BOARD OF REVENUE.

Simla, the 20th July 1933.

From

Rai Bahadur Pandit Ram Nath, B.A.,

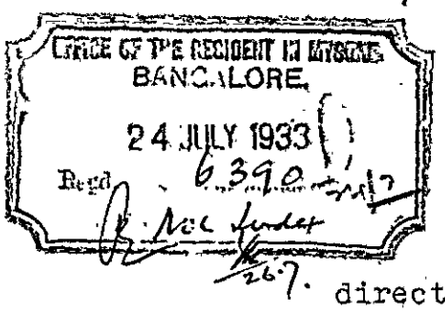
Secretary, Central Board of Revenue,

To

The Commissioner of Income-tax,

Civil & Military Station, BANGALORE.

Sir,



Personal incomes - Assessment to income-tax and supertax - Statistics - Your letter No.5160, dated the 13th July 1933.

In reply to your letter quoted above, I am directed to say that your presumption is correct.

I have the honour to be,

Sir,

Your most obedient servant,

20-7-33

Secretary, Central Board of Revenue.

P.S.20/7.

S.IV.11

Draft.

No. 5714 Dated 7/8/1933

From

The Secretary to the Resident
and
Commissioner of Income-tax.

To

The Collector & Assistant
Commissioner of Income-tax,

Civil & Military Station,

Bangalore.

(9) (Y) Personal incomes - Assessment to income-tax and supertax - Statistics. Board's circular R.Dis.No.733-I/26, dated the 7th April, 1928 - Your letter No.I.T.Gl.111, dated the 30th May 1933.

Your presumption is correct.

30.9.33

for SECRETARY TO THE RESIDENT
and
COMMISSIONER OF INCOME-TAX.

27.7.33

Dated 29/8/33